

SOUTH AFRICA

TRADE SUMMARY

In 2000, the U.S. trade deficit with South Africa was \$1.12 billion, an increase of \$507 million from the 1999 deficit in 1999. U.S. merchandise exports to South Africa were \$3.1 billion in 2000, an increase of \$502 million from 1999. South Africa was the 34th largest U.S. export market in 2000. U.S. imports from South Africa were \$4.2 billion in 2000, an increase of \$1.0 billion from the level of imports in 1999. The stock of U.S. foreign direct investment in South Africa in 1999 was \$3.3 billion, a 40.9 percent increase from 1998.

U.S. exports of private commercial services (i.e., excluding military and government) to South Africa were \$1.2 billion in 1999, and U.S. imports were \$866 million. Sales of services in South Africa by majority U.S.-owned affiliates were \$1.2 billion in 1998, while sales of services in the United States by majority South African-owned firms were \$147 million.

South Africa has substantially opened its market since 1994. Tariff rates have generally declined and other non-tariff barriers have been reduced. As a matter of government policy, the South African Government is aiming for still further market opening in order to increase trade and develop more competitive domestic industries.

IMPORT POLICIES

Import Permits

Under the Import and Export Control Act of 1963, the Minister of Trade and Industry may limit the import of certain goods into South Africa. For those goods subject to import control measures, importers must apply for import permits prior to the goods importation. Application forms that are available in electronic format on the website of the Department of Trade and Industry (DTI) must be used.

In recent years, the list of restricted goods requiring import permits has been substantially reduced as the DTI has tried to phase out import permits in favor of tariffs. The products still requiring import permits include: fish and fish products, used goods, scrap, waste, ashes, residues, petroleum products, ozone-depleting chemicals, firearms and ammunition, gambling equipment, and radioactive chemical elements. The Directorate of Imports and Exports within DTI controls the issuance of permits, though additional and prior authorization may be required from other departments that also have jurisdiction over the control of goods in question. Acquisition of a permit can be completed within 3 to 4 days, although applications should be filed at least two weeks prior to the date of shipment. There is no fee and permits may be issued for up to 12 months.

Tariffs

To comply with its WTO commitments, South Africa has reformed and simplified its tariff structure, reducing the average tariff rate from more than 20 percent to an import-

eighted average rate of 7 percent. Ninety-eight percent of South Africa's tariff lines are now bound. Tariff rates generally fall within eight levels ranging from 0 to 30 percent. However, in spite of these reforms, South Africa's tariff schedule remains complex and can create uncertainty for businesses that frequently import goods. The complexity of the system often makes it necessary to employ facilitators to assist with importing. Furthermore, some industries previously protected by non-tariff barriers have tried to increase tariffs to WTO-bound levels, which are usually substantially higher than applied rates.

Any South African producer may petition the Board on Tariffs and Trade (BTT) for tariff increases or reductions. If an application passes an initial assessment by the BTT, a consultation process is initiated. Although public comment on tariff protection requests is normally open for a 6-week period, a shorter period may be applied in emergency situations. After the consultations, the BTT investigates the matter further and then makes a recommendation to the South African Government for a decision. There is no statutory limit on the time the South African Government may take to reach a decision. Petitions for tariff protection are decreasing because of the South African Government's policy to lower tariffs to improve competitiveness. During 2000, the DTI and the BTT have refused many but not all tariff increase applications and have removed or reduced the duties on a number of products. Of the applications finalized during the year, 13 were rejected and 8 recommended. Most duties are ad valorem, but specific duties are also levied for some products, particularly for agricultural products.

Some tariffs remain high. For example, although the South African paper industry is a modern, world-class industry, it receives a level of protection ranging up to 10 percent, and in some cases, higher. South African tariffs on manufactured wood products are also considered higher than world standards. The BTT has explained that South Africa increased tariffs on certain paperboard and paper products between 1992 and 1994 to achieve greater uniformity of tariffs. These increases were, however, followed in 1995 by a general phased reduction of tariffs on paper and paperboard that will bring most tariffs down to 10 percent by 2000 and to 5 percent ad valorem by 2005. Some rebate provisions have been introduced for categories of paper and paperboard not manufactured locally, authorizing full duty rebates on imports of some uncoated and coated kraft paper and paperboard, coated paper and paperboard, and tarred, bituminized or asphalted paper and paperboard.

In the Uruguay Round, South Africa agreed to a 12-year phase down in clothing and textiles, but since then has unilaterally moved to a 7-year phase down process. As of September 1, 2000 the following tariffs apply:

Apparel	54 percent	
Yarns	20 percent	
	Fabrics	27 percent
Finished goods	30-37 percent	
(household goods)		

Fibers	0-12.5 percent
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The end rates that South Africa expects to achieve in 2002 are:

Apparel	40 percent
Yarns	15 percent
Fabrics	22 percent
Finished goods	30 percent

(household goods)

Fibers	7.5 percent
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Beyond this, the South African tariff code provides for maximum limits on actual tariffs to be paid. There are also minimum duty requirements. As a result, according to the BTT, goods imported from the United States are subject to an actual duty percentage as follows:

Apparel	40 percent
Yarns	15 percent
Fabrics	22 percent
Finished goods	30 percent

Dumping

The number of anti-dumping petitions filed in South Africa remains high. The BTT says that the increase in petitions, which started in 1997, was expected as a result of tariffs being phased down. Previously, the BTT acknowledges, formula duties and even high rates of ad valorem or specific duties were sometimes used to counter dumping. But due to South Africa's WTO binding commitments and tariff policy, this practice is no longer followed.

In a December ruling, the BTT reaffirmed the anti-dumping duties on poultry parts imported from the United States, preliminarily imposed in July 2000. The anti-dumping duties were finalized at 224c/kg for poultry parts exported by one major producer, 245c/kg for another major producer, and 696c/kg for other U.S. producers. The South African industry argued that poultry parts, e.g. dark chicken meat, was being dumped in South Africa below U.S. costs. U.S. industry argues strongly that international free market supply and demand factors alone account for the lower, more competitive price for U.S. exports of dark poultry meat.

Free Trade Agreement with the European Union

South Africa and the European Union (EU) recently implemented the trade provisions of their Agreement on Trade, Development and Cooperation. Under the Agreement, South

Africa and the EU will establish a free trade area (FTA) over a transitional period of up to twelve years for South Africa, and up to ten years for the EU. Because the agreement calls for the reduction and eventual elimination of duties on trade between the EU and South Africa, some U.S. firms exporting to South Africa have expressed concern that their products may become less competitive in South African markets, limiting future trade and investment opportunities for U.S. companies. In addition, duty-free South African goods entering the EU are expected to increase by twenty percentage points over the next ten years. Many goods, especially agricultural goods, are currently subject to EU quotas. These quotas will be increased under the FTA. The U.S. International Trade Commission is in the process of analyzing the EU-South Africa FTA to determine its probable economic effect on the United States, including the probable impact on U.S. exports to South Africa.

STANDARDS, TESTING, LABELING AND CERTIFICATION

Biotechnology

There is an active debate in South Africa on products produced using modern biotechnology - often referred to as genetically modified organisms (GMOs). The 1997 Genetically Modified Organisms Act that came into force on December 1, 1999, aims to ensure that all activities involving the use of GMOs (including production, import, release and distribution) will be carried out in such a way as to limit possible harmful consequences to the environment. The Act creates an Executive Council for Genetically Modified Organisms (composed of, inter alia, representatives from six government agencies), a registrar, and a separate Advisory Committee composed of scientists and environmentalists. Some up-scale stores have started selling GMO-free products, while some consumer groups have urged the Ministry of Health to introduce compulsory GMO labeling.

Agricultural Standards

The Directorate of Plant Health and Quality within the National Department of Agriculture is responsible for setting standards for certain agricultural and agricultural-related products. This includes aspects such as the composition, quality, packaging, marketing and labeling as well as physical, physiological, chemical and microbiological analyses. These standards are published pursuant to the Agricultural Product Standards Amendment Act of 1998 and the Liquor Products Act of 1989 in the form of regulations for products to be sold on the local market and in the form of standards and requirements for products that are intended for export.

Under the WTO Agreement on the Application of Sanitary and Phytosanitary Measures, prospective importers have to apply for an import permit for certain controlled products. South Africa recently notified the WTO of a proposal to reconsider certain tolerances for specified noxious seeds in grain (primarily wheat, corn and oilseeds). The current maximum tolerance levels allowed are low by world standards, and are seen by some to be potentially trade-restricting. The U.S. Department of Agriculture has provided comments on the proposal that questions the scientific basis for the current tolerance levels.

The import of irradiated meat from any source is still banned on public health grounds.

GOVERNMENT PROCUREMENT

Tender Process

South Africa is not a signatory to the WTO Agreement on Government Procurement. The State Tender Board and nine Provincial Tender Boards regulate government procurement. Parastatals funded by the government generally follow government policy on procurement. A government procurement rationalization proposal made during 1998 was not implemented. However, all parties agreed on the need for uniformity and a consensus was reached on introducing conformity between central and provincial procurement policies.

The Preferential Procurement Policy Framework Act that was implemented in February 2000, aims to promote public sector procurement reform in all organs of state, to introduce a more uniform public sector procurement system and to provide implementing guidelines for the procurement policy. Under the Preferential Procurement Policy Framework Act, a government organization with a preferred provider program must use a preference point system. Under this system, a contract will be awarded to the bidder with the highest number of points, provided the bidder is within a certain range of the lowest acceptable bid price. For large contracts, up to 10 percent of the total points may be awarded to bidders for empowerment of historically disadvantaged individuals (HDI).

Revised regulations implementing this law are scheduled to be published early in 2001. These will provide for points to be awarded based on the percentage of HDI ownership, the percentage of HDI managers, skills transfer to HDI employees, and other initiatives to assist HDIs. U.S. companies operating in South Africa are mostly multi-national corporations (MNCs). Many already have significant programs that support and empower HDIs and could therefore fare well in this system. However, if the point system makes HDI equity ownership a mandatory part of the system, it may have negative implications for MNCs because many MNC boards of directors may be unwilling to give away corporate equity solely for the purpose of doing business with the South African government.

Industrial Participation

Any bidder for a government or parastatal contract whose bid contains imported content worth over \$10 million must submit an "industrial participation" plan showing that the bidder will invest in a new or incremental business in South Africa. Under the National Industrial Participation Program (NIPP), the seller must invest at least 30 percent of the value of the imported content of the tender in a South African business. In the case of defense bids, the figure increases to 50 percent.

EXPORT SUBSIDIES

South Africa has an Export Marketing and Investment Assistance Scheme (EMIA) that provides financial support for trade missions, exhibitions, market research and outward

and inward investment recruitment missions. Export financing for capital goods and projects is provided at fixed interest rates by a group of financial institutions contracted to DTI. An export finance guarantee facility for small exporters assists small and medium sized enterprises.

Rebates

Rebate systems exist in South Africa for the textile and motor industry. The textile rebate system is intended to assist in the restructuring and development of the South African textile industry. Under this program, an exporter is permitted to import duty free an amount of textile products equivalent to 25 percent of its exports of clothing, 12.5 percent of fabrics and 8 percent of yarns. A similar program exists for the automobile industry known as the Motor Industry Development Program (MIDP).

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Legal Regime

The government passed two IPR-related laws at the end of 1997: the Counterfeit Goods Act (CGA) and the Intellectual Property Laws Amendment Bill, bringing South Africa's laws largely into conformity with its international trade obligations under the WTO's Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS). The CGA provides for criminal prosecution of persons trading in counterfeit or pirated goods and establishes a special anti-piracy unit. However, enforcement of these laws by the National Inspectorate has only recently begun in earnest; the CGA remains only a theoretical deterrent to counterfeiting. At the beginning of November 2000, 20 inspectors were appointed and trained. A number of warehouse facilities designated as counterfeit goods depots were appointed on a self-funding basis during the latter part of 2000. The DTI intends to put out a tender for the disposal of seized counterfeit goods in state warehouses early in 2001.

South Africa is a member of the Paris Union and acceded to the Stockholm Text of the Paris Convention for the Protection of Industrial Property. South Africa is also a member of the World Intellectual Property Organization. Nevertheless, although South Africa's intellectual property laws and practices are generally in conformity with those of the industrialized nations, firms do experience problems with the protection of their intellectual property. The enforcement of individual copyright claims is complicated by the lack of evidentiary presumptions in the law, requiring use of an expensive registration system or submission of extensive proof of copyright subsistence and ownership. As noted above, the enforcement of the CGA has been limited to date.

Software/Audio Visual IPR Issues

Software piracy occurs frequently in South Africa. The Business Software Alliance (BSA) estimates that nearly half of South Africa's business software is pirated, resulting in a loss of about \$63 million per year to computer companies. Other software industry representatives put pirate software's share of the market as high as 75 percent. Piracy in the video and sound industry is still an issue of concern, with a piracy rate of around 13 percent on sound recordings and a piracy rate of 10 percent on videos. Total annual losses due to audiovisual piracy in South Africa during 2000 are estimated to be \$23 million (little changed from the \$24 million in 1998).

Pharmaceutical IPR Issues

The pharmaceutical industry has argued that changes made in 1997 to South Africa's Medicines Act undermine patents and could be a violation of South Africa's TRIPS obligations. The U.S. Government will continue to monitor this situation to ensure South Africa protects intellectual property in a TRIPS-consistent manner.

The United States is fully aware of the devastating impact that HIV/AIDS has on South Africa and many of its neighbors. The United States will not object if countries take advantage of the flexibility provided by the TRIPS Agreement to address this pandemic, so long as their policies remain TRIPS-consistent.

SERVICES BARRIERS

Telecommunications

On basic telecommunications services, South Africa adopted the WTO reference paper on pro-competitive regulatory principles. The South African government also committed to license a second supplier no later than January 1, 2004, to compete against the parastatal, Telkom, the current monopoly supplier, in long-distance, data, telex, fax and privately leased circuits services. South Africa will also consider the feasibility of licensing additional suppliers. Telkom's exclusivity period continues until May 2002, but may be extended for a further year if Telkom meets its telephony rollout targets. Competition for the second network operator may begin as early as 2001.

Until Telkom's exclusivity ends, Internet Service Providers (ISPs) and Value-Added Networks (VANS) may continue to face problems from Telkom. Although value-added services do not appear to fall within the scope of Telkom's monopoly, Telkom has claimed that VANS and ISPs are resellers of basic services and thus infringing on Telkom's monopoly. Telkom has subsequently refused to provide new facilities to VANS operators. South Africa's new telecommunications regulatory authority (ICASA), not Telkom, has the sole authority to determine whether these services are illegal. Until then, Telkom is obliged to continue providing service. However, ICASA has not effectively asserted its authority over Telkom. Decisions taken by ICASA are often challenged by Telkom, which delays implementation of ICASA's rulings.

The United States continues to monitor South Africa pursuant to Section 1377 of the Trade Act of 1988 for compliance with its commitments in the WTO. After the intervention of the U.S. Government, Telkom resumed the provision of telecommunications facilities to certain VANS providers. However, on November 21,

2000, Telkom filed a complaint with ICASA, alleging that certain providers were using facilities to provide services outside the scope of its VANS licenses.

ICASA was established during 2000, but enforcement and regulatory oversight of the dominant operator's activities remains problematic. ICASA is in the process of collecting comments on draft VANS regulations and, in a separate proceeding, on whether virtual private networks are VANS. One regulation causing concern proposes that no less than 15 percent of ownership and control of a VANS license should be held by historically disadvantaged individuals. This regulation, if adopted, would have serious ramifications for U.S. companies that are currently providing or would like to provide VANS in South Africa as it will effectively limit foreign ownership to 85 percent.

Other Services

In the 1997 WTO financial services negotiations, South Africa made commitments resulting in increased access to its market in a number of financial services sectors, including banking, securities, and insurance. However, by regulation, a foreign bank that wishes to operate a branch in South Africa is required to capitalize its local operation by the greater of eight percent of risk-weighted assets and other contingent liabilities, or 50 million rand held in South Africa.

South Africa decided in 2000 to implement legislation to regulate private and foreign higher education institutions as a result of its concern that they could threaten the development and sustainability of the country's education system. The recent legislation empowers the government to determine how many students private and foreign institutions may enroll, what courses they may offer, and whether or not they may use the name "university." Private and foreign institutions are subject to a lengthy process of registration, from which local institutions are exempt.

INVESTMENT BARRIERS

Trade-Related Investment Measures Agreement

In accordance with the Trade-Related Investment Measures Agreement (TRIMS), South Africa notified the WTO of measures (its tea scheme and Phase VI of its motor industry program) that were inconsistent with its TRIMS obligations. The tea measures have since been tariffed and the Phase VI program has been replaced.

Bilateral Agreements

Former Vice President Gore and South Africa's then Deputy President Mbeki signed an income tax treaty on February 17, 1997, in Cape Town. It was ratified by each country and entered into force on January 1, 1998. The treaty reduces tax rates on certain cross-border income flows, increases investor confidence through protection against nondiscriminatory taxation, and provides for a dispute-resolution mechanism.

On February 18, 1999, in a ceremony in Cape Town presided over by the then Vice President Gore and then Deputy President Mbeki, the United States and South Africa signed a Trade and Investment Framework Agreement (TIFA). The TIFA, the first ever

negotiated with a country in sub-Saharan Africa, creates a Trade and Investment Council, composed of representatives of both governments, who meet regularly to discuss specific trade and investment matters, negotiate agreements if appropriate, and identify and work to remove impediments to trade and investment flows. While the Trade and Investment Council is a government-to-government body, the private sectors of both countries may also be consulted. The first TIFA meeting was held in July 1999.

Tax Incentives

South Africa has used tax incentives to encourage investment. For a limited period, nondiscriminatory tax allowances, such as those contained in the Income Tax Act of 1962 for machinery and buildings used in a manufacturing process, were granted on an accelerated basis. If any new or unused plant or machinery was acquired and used for manufacturing by a taxpayer between July 1, 1996 and September 30, 1999, the cost could be written off over three years. A similar allowance was also granted to a lessor of manufacturing plants and machinery. Similarly, a 10-year write-off was available for erecting any building, or any improvements to a building for manufacturing during July 1, 1996 to September 30, 1999, and used before March 31, 2000. The corporate tax rate was reduced from 35 percent to 30 percent in 1999.

On September 6, 2000, the Minister of Trade and Industry announced the first of a set of new investment incentives approved by Cabinet. The new programs are designed to elicit a higher level of domestic and foreign private investment in employment and wealth creating industries to address the challenges of job creation and poverty alleviation by promoting sustainable economic growth and skills development.

The SAG has broadened the qualification criteria in the new incentives to improve the quality and quantity of investment. The previous program, the Small and Medium Manufacturing Development Program (SMMDP), only applied to for secondary manufacturing entities with an investment in qualifying assets of up to R3 million. The new program, Small and Medium Enterprise Development Program (SMEDP), gives assistance for investments with qualifying assets of up to R100 million. Eligible projects will receive an annual cash grant of 10 percent of qualifying investment cost, paid over two or three years, if a labor usage criterion is met. The grant is tax-free. In addition, the SMEDP expanded the sectors eligible for support. New and expansion projects in manufacturing, tourism, certain business services, information and communication technology investments, high-value agricultural projects, agro-processing, recycling, biotechnology industries, aqua-culture and cultural industries may now be considered for assistance.

Another program, the Skills Support Program (SSP), provides a cash grant for up to 50 percent of the costs of training new staff resulting from an expansion or new project. The grant, which is paid on a performance basis up to three years, will be capped at 30 percent of the annual wage bill and requires an approved training program. The SSP makes further provisions in the form of a capital grant for training equipment, and a facility to develop the content of and course materials for training programs before training begins. Expansions and new projects can access the SSP as well as other investment or competitiveness incentives simultaneously.

ANTI-COMPETITIVE PRACTICES

Ownership Patterns

Ownership remains highly concentrated in many sectors of the South African economy. Under apartheid, a large portion of the South African population was entirely excluded from ownership of business enterprises. In addition, successful companies such as South African Breweries, Anglo American (including De Beers) and SASOL had been prohibited, from 1961 to 1994, from investing abroad and, therefore, expanded their activities locally. Conglomerates, which can exert considerable market power, are therefore prevalent in the South African market. Furthermore, sectors such as energy, transport and telecommunications have historically been controlled or dominated by parastatals.

The Competition Commission

The previous competition authority was weak; it had no enforcement powers and could only make recommendations to the Minister of Trade and Industry on practices or acquisitions that might restrict competition in the market. The Competition Act of 1998, which came into effect on September 1, 1999, is aimed at anti-competitive practices, eliminating abuse of dominant positions (defined as a market share of 35 percent or more) and the strengthening of merger control. The new legislation also gave more power to restrict anti-competitive behavior of the state-owned enterprises, especially when they compete unfairly with the private sector. The Act provides for a Competition Commission, Competition Tribunal and Competition Appeal Court to replace the former Competition Board.

Some South African companies are resisting the new competition authority arguing that the regulatory environment is making it difficult for local companies to merge with competitors to achieve the scale of operations needed to compete globally. The firms argue that the commission is taking factors into account other than encouraging competitive market forces and preventing monopolies, such as the effect of a deal on employment. They also argue that the commission tends to err on the side of conservatism, putting a stop to a deal rather than taking the chance of facing a storm of protest afterwards. Other complaints include the low threshold applicable for mergers that must be notified to the Commission and the fees charged by the Commission for its investigations (between R5,000 and R500,000).

The Competition Commission disagrees. Although it intervened in 456 transactions, it prohibited about 2 percent of these while the international trend is 5 to 6 percent prohibited annually. The Competition Commission also argues that it is not a burden on foreign investors, as foreign investors are familiar with the process and understand how antitrust institutions work. Consequently, it has never had a problem with any offshore transaction.

ELECTRONIC COMMERCE

South Africa has a vibrant and rapidly growing Internet industry. In November 2000, the South African Department of Communications published a discussion document on electronic commerce policy and expects to have draft legislation completed by the end of 2001.

OTHER BARRIERS

Transparency, Corruption and Crime

South African law provides for prosecution of government officials who solicit or accept bribes. Penalties for offering or accepting a bribe may include criminal prosecution, monetary fines, dismissal for government employees, or deportation for foreign citizens. South Africa boasts no fewer than 10 agencies engaged in anti-corruption activities. Some, like the Public Service Commission (PSC), Office of the Public Protector (OPP), and Office of the Auditor-General (OAG), are constitutionally mandated and address corruption as only part of their responsibilities. Others like the Heath Special Investigative Unit (HSIU), the South African Police Anti-Corruption Unit, and the newly created Directorate for Special Operations, more popularly known as the Scorpions, are dedicated to combating crime and corruption. The HSIU takes a civil, not criminal approach, and has been particularly effective in recovering stolen or misappropriated assets. High rates of violent crime make it difficult for South African criminal and judicial entities to dedicate adequate resources to anti-corruption efforts. U.S. firms have, however, not identified corruption as a serious obstacle to foreign direct investment.

During the last few years, crime has been a far more serious problem than either corruption or political violence, and an impediment to and a cost of doing business in South Africa. The South African police forces have not been effective or well accepted in many communities because of their historical role in enforcing minority rule, lack of training, and internal crime and corruption within the forces.

Government transparency has increased substantially during the last few years. It was further enhanced by the Promotion of Access to Information Act, signed into law in February 2000. The Public Finance Management Act (PFMA), which became effective on April 1, 2000, helped to raise the level of oversight and control over public monies and, in doing so, to also improve the transparency of government spending, especially with regard to off-budget agencies and parastatals. The Preferential Procurement Policy Framework Act enacted in 2000, may also increase transparency in government procurement by, *inter alia*, establishing clear rules for preferential awarding of government contracts to firms with black ownership or shareholders.

Southern African Customs Union

South Africa has been a member of the South African Customs Union (SACU) since its inception in 1910. The SACU agreement was renegotiated in 1969 following the independence of Botswana, Swaziland, and Lesotho. Namibia joined SACU in 1990. SACU aims to promote free trade and cooperation on customs matters among its five member states. There are presently no internal tariff barriers between SACU member states, but because of different tax regimes, there are some tax adjustments that occur

at the borders. All SACU members, except Botswana, share a common currency as members of the Common Monetary Area (CMA). Imports from outside the SACU are subject to a common external tariff. Under the current agreement, the Minister of Trade and Industry of South Africa sets the tariffs for all of SACU upon the recommendation of the BTT. The other SACU members are, however, consulted on the tariff. When the tariff is amended, the new tariff is implemented by all the SACU member states. The SACU agreement is again being renegotiated but it is not clear when these discussions will be completed. Key topics under discussion are how to redo the revenue sharing formula and what powers should be given the new SACU secretariat.

An Agreement on Trade, Development and Cooperation between the European Community and its Member States and the Republic of South Africa was signed in October 1999. Trade provisions of the Agreement were implemented in 2000. The trade provisions call for the establishment of a free trade area over a transition period lasting a maximum of twelve years for South Africa and a maximum of 10 years for the European Community. Elimination of duties on European Community goods exported to South Africa will impact on customs revenues distributed to members of SACU. Under the current revenue sharing formula, South Africa would soon pay out to other SACU members larger customs related shares than the Customs Union takes in. South Africa is therefore seeking a revenue sharing formula that would take account of the phase down in the customs tariffs.

Because of the Southern African Customs Union, products from Botswana, Lesotho, Swaziland and Namibia enter South Africa duty free. In a few cases, products from these countries compete directly with U.S. goods and have the advantage of a lower tariff duty. For example, soda ash from Botswana comes into South Africa at a 0 percent duty whereas soda ash from the U.S. faces a 10 percent duty. South Africa does not produce soda ash but the duty on imported soda ash was introduced for the benefit of Botswana.

Southern African Development Community

Another development that is likely to affect U.S. exports to South Africa, as well as the other members of the Southern African Development Community (SADC), is the implementation of a SADC Trade Protocol, which established a Free Trade Area in September 2000. Textile concerns and market access issues inhibit full implementation of the FTA. The Trade Protocol limits ratifying countries' ability to raise tariffs against other SADC members or to impose new non-tariff barriers. The Protocol also calls for the harmonization of customs, trade facilitation, and standards.

Steel

Steel (carbon steels, ferro-alloys, stainless steels and down-stream products) has been

identified by the DTI as a strategic growth industry for South Africa that will gradually fill the employment and foreign exchange earnings gap being created by the declining gold sector. Over the past years, there have been a number of U.S. anti-dumping, countervailing duty or safeguard actions against South African steel. An anti-dumping and countervailing duty investigation is currently underway on South African exports of hot-rolled carbon steel to the United States.